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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 22, 2018, the United States Court of International Trade (the Court) issued its final judgment in *Itochu Building Products Co., Inc., et al. v. United States*, Consol. Court No. 12-00065, sustaining the U.S. Department of Commerce's (Commerce) final remand results in the second administrative review of certain steel nails from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results of the administrative review, covering the period of review (POR) August 1, 2009, through July 31, 2010, and that Commerce is amending the final results with respect to the dumping margins assigned to Tianjin Jinchi Metal Products Co., Ltd. (Jinchi) and Tianjin Jinghai County Hongli Industry & Business Co. (Hongli). Because Jinchi's and Hongli's margins changed, the margin for those companies not individually examined but receiving a separate rate also changed.

DATES: Applicable April 2, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202.482.0413.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2012, Commerce issued the *Final Results*, in which it determined a weight-averaged dumping margin of 47.76 percent for Jinchi, 78.27 percent for Hongli, and 19.30 percent for the separate rate companies.¹ Also, on April 24, 2012, Commerce issued the *Amended Final Results*, however, the weighted-average dumping margins did not change.² On June 22, 2017, the Court remanded Commerce's *Final Results* and *Amended Final Results* and instructed Commerce to reconsider each of the following issues: 1) the selection of surrogate values for steel plate and surrogate financial ratios; 2) its application of adverse facts available to Jinchi's missing factors of production; and 3) the Court's questions and Mid-Continent Nail Corporation (the petitioner)'s responses regarding the withdrawal of review requests in this administrative review.³ The Court also granted Commerce's request for voluntary remand to reconsider its use of a specific financial statement.⁴

On October 20, 2017, Commerce filed the AR2 Remand with the Court.⁵ Commerce maintained its selection of financial statements for calculating the surrogate financial ratios and

¹ See *Certain Steel Nails from the People's Republic of China: Final Results and Final Partial Rescission of the Second Antidumping Duty Administrative Review*, 77 FR 12556 (March 1, 2012) and accompanying Issues and Decision Memorandum (IDM) (*Final Results*).

² See *Certain Steel Nails from the People's Republic of China: Amended Final Results of the Second Antidumping Duty Administrative Review*, 77 FR 24462 (April 24, 2012) (*Amended Final Results*).

³ See *Itochu Building Products Co., et al v. United States*, Slip Op. 17-73 (CIT 2017) at 13-15 and 41 (*Itochu*).

⁴ *Id.* at 22.

⁵ See *Final Results of Redetermination Pursuant to Court Remand*, Consol. Court No. 12-00065, Slip Op. 17-73 (CIT 2017), dated October 20, 2017, (AR2 Remand) available at <http://enforcement.trade.gov/remands/17-73.pdf>.

selected, under protest, a different surrogate value for steel plate.⁶ Additionally, under protest, Commerce recalculated Jinchi's dumping margin by applying neutral facts available to the missing factors of production for hard-cut masonry nails produced by an unaffiliated supplier.⁷ Moreover, Commerce examined the petitioner's responses to the Court's questions.⁸ As a result, there are calculation changes due to selecting a different surrogate value for steel plate and applying neutral facts available to the missing factors of production for hard-cut masonry nails in Jinchi's dumping margin. Thus, the resulting antidumping margin for Hongli is 36.23 percent, for Jinchi is 53.47 percent, and for the Separate Rate Applicants⁹ is 14.48 percent.¹⁰ There is no change to the dumping margin for The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc./Stanley Fastening Systems, LP (Stanley).¹¹ On March 22, 2018, the Court sustained the AR2 Remand.¹²

Timken Notice

In its decision in *Timken*, 893 F.2d at 341,¹³ as clarified by *Diamond Sawblades*,¹⁴ the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries

⁶ *Id.*, at 53.

⁷ *Id.*

⁸ *Id.*

⁹ These companies include: (1) Dezhou Hualude Hardware Products Co., Ltd.; (2) Hengshui Mingyao Hardware & Mesh Products Co., Ltd.; (3) Huanghua Jinhai Hardware Products Co., Ltd.; (4) Huanghua Xionghua Hardware Products Co., Ltd.; (5) Koram Panagene Co., Ltd.; (6) Qingdao D & L Group Ltd. Co., Ltd.; (7) Romp (Tianjin) Hardware Co., Ltd.; (8) Shandong Dinglong Import & Export Co., Ltd.; (9) Shanghai Curvet Hardware Products Co., Ltd.; (10) Shanghai Jade Shuttle Hardware Tools Co., Ltd.; (11) Shanghai Yueda Nails Industry Co., Ltd.; (12) Shanxi Tianli Industries Co., Ltd.; (13) Tianjin Lianda Group Co., Ltd.; (14) Tianjin Universal Machinery Imp & Exp Corporation; and (15) Tianjin Zhonglian Metals Ware Co., Ltd. (collectively, Separate-Rate Applicants).

¹⁰ *Id.*

¹¹ *Id.*, at 2.

¹² See *Itochu Building Products Co., Inc., et al. v. United States*, Consol. Court No. 12-00065, Slip Op. 18-24 (CIT March 22, 2018).

¹³ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁴ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

pending a “conclusive” court decision. The Court’s March 22, 2018, judgment sustaining the AR2 Remand constitutes a final decision of the Court that is not in harmony with Commerce’s *Amended Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce is amending the *Amended Final Results* with respect to Jinchi, Hongli, and the Separate-Rate Applicants. The revised weighted-average dumping margins for these exporters during the period August 1, 2009, through July 31, 2010, are as follows:

Exporter	Weighted Average Margin (Percent)
1) The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc./Stanley Fastening Systems, LP	3.80%
2) Tianjin Jinghai County Hongli Industry & Business Co.	36.23%
3) Tianjin Jinchi Metal Products Co., Ltd.	53.47%
4) Dezhou Hualude Hardware Products Co., Ltd.	14.48%
5) Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	14.48%
6) Huanghua Jinhai Hardware Products Co., Ltd.	14.48%
7) Huanghua Xionghua Hardware Products Co., Ltd.	14.48%
8) Koram Panagene Co., Ltd.	14.48%
9) Qingdao D & L Group Ltd.Co., Ltd.	14.48%
10) Romp (Tianjin) Hardware Co., Ltd.	14.48%
11) Shandong Dinglong Import & Export Co., Ltd.	14.48%
12) Shanghai Curvet Hardware Products Co., Ltd.	14.48%
13) Shanghai Jade Shuttle Hardware Tools Co., Ltd.	14.48%
14) Shanghai Yueda Nails Industry Co., Ltd.	14.48%
15) Shanxi Tianli Industries Co., Ltd.	14.48%
16) Tianjin Lianda Group Co., Ltd.	14.48%
17) Tianjin Universal Machinery Imp & Exp Corporation	14.48%
18) Tianjin Zhonglian Metals Ware Co., Ltd.	14.48%

Accordingly, Commerce will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by Jinchi, Hongli, and the Separate-Rate Applicants using the assessment rate calculated by Commerce in the AR2 Remand and listed above.

Cash Deposit Requirements

Cash deposit rates for the following companies have been superseded by cash deposit rates calculated in intervening administrative reviews of the order, and thus, will not be amended:

The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc./Stanley Fastening Systems, LP; Tianjin Jinghai County Hongli Industry & Business Co.; Tianjin Jinchi Metal Products Co., Ltd.; Dezhou Hualude Hardware Products Co., Ltd.; Huanghua Jinhai Hardware Products Co., Ltd.; Huanghua Xionghua Hardware Products Co., Ltd.; Qingdao D & L Group Ltd. Co., Ltd.; Shandong Dinglong Import & Export Co., Ltd.; Shanghai Curvet Hardware Products Co., Ltd.; Shanghai Jade Shuttle Hardware Tools Co., Ltd.; Shanghai Yueda Nails Industry Co., Ltd.; Shanxi Tianli Industries Co., Ltd.; Tianjin Lianda Group Co., Ltd.; Tianjin Universal Machinery Imp & Exp Corporation; and Tianjin Zhonglian Metals Ware Co., Ltd.

Accordingly, Commerce will instruct U.S. Customs and Border Protection to require a cash deposit for estimated duties at the rate noted above for entries of subject merchandise,

entered or withdrawn from warehouse, for consumption, on or after April 2, 2018, for Hengshui Mingyao Hardware & Mesh Products Co., Ltd.; Koram Panagene Co., Ltd.; and Romp (Tianjin) Hardware Co., Ltd.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 2, 2018.

Gary Taverman,

Deputy Assistant Secretary

*for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

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